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12  
13 **UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

14 PEDRO MORET, individually, on  
15 behalf of others similarly situated,  
16 and on behalf of the general public,

17 Plaintiff,

18 vs.

19 U.S. BANCORP, U.S. BANK, N.A.,  
20 and RED SKY RISK SERVICES,  
21 LLC, and DOES 1-10, inclusive

22 Defendants.

Case No. 5:18-cv-01612-AB-SP

**STIPULATED PROTECTIVE ORDER**

Complaint Filed: August 1, 2018

[NOTE CHANGES MADE BY THE  
COURT IN ¶¶ 3, 5.2(b), 6.3]

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27 *Attorneys for Defendants*  
28 *U.S. BANCORP;*  
*U.S. BANK NATIONAL ASSOCIATION; and*  
*RED SKY RISK SERVICES, LLC*

1 Subject to the approval of this Court, Plaintiff Pedro Moret (“Plaintiff”) on the  
2 one hand, and Defendants US. Bancorp, U.S. Bank N.A., and Red Sky Risk Services,  
3 LLC (collectively, “Defendants”) on the other hand, by and through their respective  
4 Counsel, hereby stipulate to the following protective order:

5 **1. PURPOSES AND LIMITATIONS**

6 Disclosure and discovery activity in This Action will likely involve production  
7 of confidential, proprietary, trade secret, or private information for which special  
8 protection from public disclosure and from use for any purpose other than litigating  
9 this matter would be warranted. Accordingly, the parties hereby stipulate to and  
10 petition the court to enter the following Stipulated Protective Order. The parties  
11 acknowledge that this Stipulated Protective Order does not confer blanket protections  
12 on all disclosures or responses to discovery and that the protection it affords extends  
13 only to the limited information or items that are entitled under the applicable legal  
14 principles to treatment as confidential. The parties further acknowledge, as set forth  
15 in Section 10, below, that this Stipulated Protective Order creates no entitlement to  
16 file confidential information under seal; Civil Local Rule 79-5 sets forth the  
17 procedures that must be followed and reflects the standards that will be applied when  
18 a party seeks permission from the court to file material under seal. The parties further  
19 acknowledge that nothing in this Stipulated Protective Order shall preclude either  
20 party from asserting that a document is of such a confidential or private nature that it  
21 should not be produced or that it should only be produced in redacted form, or from  
22 seeking a protective order to preclude the production of certain documents.

23 **2. DEFINITIONS**

24 2.1. Party: any Party to This Action, including all of its officers, directors,  
25 employees, consultants, retained experts, and Outside Counsel (and their support  
26 staff).

27 2.2. Non-Party: any third party that produced or produces any material to a  
28 Party in connection with This Action, regardless of whether those materials are

1 produced voluntarily or in response to a subpoena, or other formal or informal  
2 discovery process.

3 2.3. This Action: means the above-captioned action pending in this Court,  
4 including any related discovery pretrial, post-trial or appellate proceedings.

5 2.4. Disclosure or Discovery Material: all items or information, regardless of  
6 the medium or manner generated, stored, or maintained (including, among other  
7 things, documents, electronic data, testimony, transcripts, or tangible things) that are  
8 produced or generated in disclosures or responses to discovery in this matter.

9 2.5. Confidential Information and Items: information (regardless of how  
10 generated, stored, or maintained) or tangible things that contain information involving  
11 proprietary, trade secrets, or confidential business or financial information, or personal  
12 information protected by the California constitutional right of privacy and other  
13 related statutes protecting the Parties' rights to privacy.

14 2.6. Receiving Party: a Party (or an individual/entity who may become a  
15 Party after this Stipulation and Order is entered) that receives Disclosure or Discovery  
16 Material from a Producing Party.

17 2.7. Producing Party: a Party or Non-Party that produces Disclosure or  
18 Discovery Material in This Action.

19 2.8. Designating Party: a Party or Non-Party that designates information or  
20 items that it produces in disclosures or in responses to discovery as  
21 "CONFIDENTIAL."

22 2.9. Privileged Material: all items or information, or portions of items or  
23 information, regardless of the medium or manner generated, stored, or maintained  
24 (including, among other things, testimony, transcripts, or tangible things) that are  
25 produced or generated in disclosures or responses to discovery in this matter that are  
26 subject the attorney-client privilege and/or the attorney work product doctrine.

27 2.10. Protected Material: any Disclosure or Discovery Material that is  
28 designated as "CONFIDENTIAL." Any designation as confidential does not make

1 inapplicable section 6 below.

2 2.11. Outside Counsel: attorneys who are not employees of a Party but who are  
3 retained to represent or advise a Party in This Action (as well as their internal support  
4 staffs).

5 2.12. House Counsel: attorneys who are employees of a Party (as well as their  
6 internal support staffs).

7 2.13. Counsel (without qualifier): Outside Counsel and House Counsel (as well  
8 as their support staffs).

9 2.14. Expert: a person with specialized knowledge or experience in a matter  
10 pertinent to the litigation who has been retained by a Party or its Counsel to serve as  
11 an expert witness or as a consultant in This Action and who is not a past or current  
12 employee of a Party or a Party's competitor, and who, at the time of retention, is not  
13 anticipated to become an employee of a Party or a Party's competitor. This definition  
14 includes a professional jury or trial consultant retained in connection with this  
15 litigation.

16 2.15. Professional Vendors: persons or entities that provide litigation support  
17 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
18 demonstrations, organizing, storing, retrieving data in any form or medium, etc.) and  
19 their employees and subcontractors.

### 20 **3. SCOPE**

21 The protections conferred by this Stipulated Protective Order cover not only  
22 Protected Material (as defined above), and Confidential Information and Items, but  
23 also any information copied or extracted therefrom, as well as all copies, excerpts,  
24 summaries, or compilations thereof, plus testimony, conversations, or presentations by  
25 Parties or Counsel to or in court or in other settings that might reveal Protected  
26 Material and Confidential Information and Items.

27 Any use of Protected Material at trial shall be governed by the orders of the trial  
28 judge. This Order does not govern the use of Protected Material at trial.

1     **4.     DURATION**

2             Even after the termination of this litigation, the confidentiality obligations  
3     imposed by this Order shall remain in effect until a Designating Party agrees  
4     otherwise in writing or a court order otherwise directs.

5     **5.     DESIGNATING PROTECTED MATERIAL**

6             5.1.   Exercise of Restraint and Care in Designating Material for Protection:

7     Each Party or Non-Party that designates information or items for protection under this  
8     Order must take care to limit any such designation to specific material that qualifies  
9     under the appropriate standards. Mass, indiscriminate, or routinized designations are  
10    prohibited. If it comes to a Party's or a Non-Party's attention that information or  
11    items that it designated for protection do not qualify for protection at all, or do not  
12    qualify for the level of protection initially asserted, that Party or Non-Party must  
13    promptly notify all other Parties that it is withdrawing the mistaken designation.

14            5.2.   Manner and Timing of Designations: Except as otherwise provided in  
15    this Order (see, e.g., sections 2.6 and 2.11 above and the second paragraph of section  
16    5.2(a) below), or as otherwise stipulated or ordered, material that qualifies for  
17    protection under this Order must be clearly so designated before the material is  
18    disclosed or produced. Designation in conformity with this Order requires:

19            (a)   For information in documentary form (apart from transcripts of  
20    depositions or other pretrial or trial proceedings): that the Producing Party affix the  
21    legend "CONFIDENTIAL" at the top, bottom or right margin of each page that  
22    contains Protected Material or, alternatively, on the first page of a multi-page  
23    document, if the entire document is protected. If only a portion or portions of the  
24    material on a page qualifies for protection, the Producing Party should endeavor to  
25    identify the protected portion(s) (e.g., by making appropriate markings in the margins)  
26    and specify, for each portion, the level of protection being asserted  
27    ("CONFIDENTIAL").

28            A Party or Non-Party that makes original documents or materials

1 available for inspection need not designate them for protection until after the  
2 inspecting Party has indicated which material it would like copied and produced.  
3 After the inspecting Party has identified the documents it wants copied and produced,  
4 the Producing Party must determine which documents, or portions thereof, qualify for  
5 protection under this Order; then, before producing the specified documents, the  
6 Producing Party must affix the appropriate legend (“CONFIDENTIAL”) at the top,  
7 bottom or right margin of each page that contains Protected Material and Confidential  
8 Information and Items. If only a portion or portions of the material on a page qualifies  
9 for protection, the Producing Party also should endeavor to identify the protected  
10 portion(s) (e.g., by making appropriate markings in the margins). Where large  
11 amounts of data are produced electronically on a CD-rom or disk, it is sufficient to  
12 label the CD-rom or disk itself “CONFIDENTIAL.” Under such circumstances, the  
13 entirety of the data contained on the CD-rom or disk shall be treated as if each  
14 individual document resident thereon were so marked, and any excerpts printed from  
15 such electronically stored data shall be identified by the Party using the excerpt as  
16 “CONFIDENTIAL,” as appropriate.

17 (b) For testimony given in deposition or in other pretrial proceedings:  
18 that the Party or Non-Party designating the testimony, identify on the record, before  
19 the close of the deposition, hearing, or other proceeding, all protected testimony, and  
20 further specify any portions of the testimony that qualify as “CONFIDENTIAL.”  
21 When it is impractical to identify separately each portion of testimony that is entitled  
22 to protection, and when it appears that substantial portions of the testimony may  
23 qualify for protection, the Party or Non-Party designating the testimony may invoke  
24 on the record (before the deposition or proceeding is concluded) a right to identify the  
25 specific portions of the testimony as to which protection is sought and to specify the  
26 level of protection being asserted (“CONFIDENTIAL”) within 30 days of the court  
27 reporter’s mailing of the transcript or within 30 days after entry of this Order,  
28 whichever is later. Only those portions that are appropriately designated for

1 protection shall be covered by the provisions of this Order.

2 Transcript pages containing Protected Material and Confidential  
3 Information and Items must be separately bound by the court reporter, who must affix  
4 to the top of each such page the legend “CONFIDENTIAL,” as instructed by the Party  
5 or Non-Party offering or sponsoring the witness or presenting the testimony.

6 (c) For information produced in some form other than documentary,  
7 and for any other tangible items: that the Producing Party affix in a prominent place  
8 on the exterior of the container or containers in which the information or item is stored  
9 the legend “CONFIDENTIAL.” If only portions of the information or item warrant  
10 protection, the Producing Party, to the extent practicable, should identify the protected  
11 portions, specifying whether they qualify as “CONFIDENTIAL.”

12 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent  
13 failure to designate qualified information or items as “CONFIDENTIAL” does not,  
14 standing alone, waive the Designating Party’s right to secure protection under this  
15 Order for such material. If material is appropriately designated as  
16 “CONFIDENTIAL” after the material was initially produced, the Receiving Party, on  
17 timely notification of the designation, must make reasonable efforts to assure that the  
18 material is treated in accordance with the provisions of this Stipulated Protective  
19 Order.

20 5.4. Past Designations. The Parties have a right to secure protection under  
21 this Order for qualified material that has been produced or generated in the course of  
22 this Action prior to the enactment of this Order within 15 days of the entry of this  
23 Order if the qualified material is appropriately designated as “CONFIDENTIAL.”

## 24 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

25 6.1. Timing of Challenges. Unless a prompt challenge to a Designating  
26 Party’s confidentiality designation is necessary to avoid foreseeable substantial  
27 unfairness, unnecessary economic burdens, or a later significant disruption or delay of  
28 the litigation, a Party does not waive its right to challenge a confidentiality designation



1 by electing not to mount a challenge promptly after the original designation is  
2 disclosed.

3 6.2. Meet and Confer. A Party that elects to initiate a challenge to a  
4 Designating Party's confidentiality designation must do so in good faith and must  
5 begin the process by conferring directly (i.e. at least one voice-to-voice dialogue, in  
6 addition to any communications via e-mail) with counsel for the Designating Party.  
7 In conferring, the challenging Party must explain the basis for its belief that the  
8 confidentiality designation was not proper and must give the Designating Party an  
9 opportunity to review the designated material, to reconsider the circumstances, and, if  
10 no change in designation is offered, to explain the basis for the chosen designation. A  
11 challenging Party may proceed to the next stage of the challenge process only if it has  
12 engaged in this meet and confer process first.

13 6.3. Judicial Intervention. A Party that elects to press a challenge to a  
14 confidentiality designation after considering the justification offered by the  
15 Designating Party may file and serve a motion in compliance with Local Rule 37 that  
16 identifies the challenged material and sets forth in detail the basis for the challenge.  
17 Said motion can be filed at any time without argument regarding, or any waiver due  
18 to, the challenging Party's untimeliness or delay. However, each such motion must be  
19 accompanied by a competent declaration that affirms that the movant has complied  
20 with the meet and confer requirements imposed in the preceding paragraph and that  
21 sets forth with specificity the justification for the confidentiality designation that was  
22 given by the Designating Party in the meet and confer dialogue.

23 6.4. The burden of persuasion in any such challenge proceeding shall be on  
24 the Designating Party. Until the court rules on the challenge, all parties shall continue  
25 to afford the material in question the level of protection to which it is entitled under  
26 the Producing Party's designation.

## 27 **7. ACCESS TO AND USE OF PROTECTED MATERIAL AND**

28

1                   **CONFIDENTIAL INFORMATION AND ITEMS**

2           7.1.   Basic Principles. A Receiving Party may use Protected Material and  
3 Confidential Information and Items that is disclosed or produced by another Party or  
4 by a Non-Party in connection with this case only for prosecuting, defending, or  
5 attempting to settle this litigation. Such Protected Material and Confidential  
6 Information and Items may be disclosed only to the categories of persons and under  
7 the conditions described in this Stipulated Protective Order. When the litigation has  
8 been terminated, a Receiving Party must comply with the provisions of section 12  
9 below (FINAL DISPOSITION).

10                   Protected Material and Confidential Information and Items must be  
11 stored and maintained by a Receiving Party at a location and in a secure manner that  
12 ensures that access is limited to the persons authorized under this Stipulated Protective  
13 Order.

14           7.2.   Disclosure of “CONFIDENTIAL” Information or Items. Unless  
15 otherwise ordered by the court or permitted in writing by the Designating Party, a  
16 Receiving Party may disclose, after having given reasonable written notice to  
17 Designating Party, any information or item designated CONFIDENTIAL only to:

18                   7.2.1. the Receiving Party;

19                   7.2.2. the Receiving Party’s Counsel of record in This Action, House  
20 Counsel and said Counsel’s paralegals, as well as other employees of said Counsel to  
21 whom it is reasonably necessary to disclose the information for this litigation;

22                   7.2.3. the officers, directors, and employees of the Receiving Party (other  
23 than those covered by subsection 7.2.2 above) to whom disclosure is reasonably  
24 necessary for this litigation;

25                   7.2.4. Experts (as defined in this Stipulated Protective Order) of the  
26 Receiving Party to whom disclosure is reasonably necessary for this litigation and  
27 who have signed the “Agreement to Be Bound by Protective Order” (Appendix A);

28                   7.2.5. the Court and its personnel;

1           7.2.6. court reporters, their staffs, and Professional Vendors to whom  
2 disclosure is reasonably necessary for this litigation;

3           7.2.7. witnesses in the action to whom disclosure is reasonably necessary  
4 and who, if the disclosure is made other than on the records at a deposition or court  
5 hearing, have signed the “Agreement to Be Bound by Protective Order” (Appendix  
6 A). Pages of transcribed deposition testimony or exhibits to depositions that reveal  
7 Protected Material and Confidential Information and Items must be separately bound  
8 by the court reporter and may not be disclosed to anyone except as permitted under  
9 this Stipulated Protective Order; or

10          7.2.8. the author of the document or the original source of the  
11 information.

12   **8.     PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**  
13       **IN OTHER LITIGATION**

14          If a Receiving Party is served with a subpoena or an order issued in other  
15 litigation that would compel disclosure of any information or items designated in This  
16 Action as “CONFIDENTIAL,” the Receiving Party must so notify the Designating  
17 Party, in writing (by email and U.S. Mail) immediately, and in no event more than  
18 three court days after receiving the subpoena or order. Such notification must include  
19 a copy of the subpoena or court order.

20          The Receiving Party also must immediately inform in writing the party who  
21 caused the subpoena or order to issue in the other litigation that some or all the  
22 material covered by the subpoena or order is the subject of this Protective Order. In  
23 addition, the Receiving Party must deliver a copy of this Stipulated Protective Order  
24 promptly to the party in the other action that caused the subpoena or order to issue.

25          The purpose of imposing these duties is to alert the interested parties to the  
26 existence of this Order and to afford the Designating Party in this case an opportunity  
27 to try to protect its confidentiality interests in the court from which the subpoena or  
28 order issued. The Designating Party shall bear the burdens and the expenses of

1 seeking protection in that court of its confidential material and nothing in these  
2 provisions should be construed as authorizing or encouraging a Receiving Party in  
3 This Action to disobey a lawful directive from another court.

4 **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL AND**  
5 **CONFIDENTIAL INFORMATION AND ITEMS**

6 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
7 Protected Material and Confidential Information and Items to any person or in any  
8 circumstance not authorized under this Stipulated Protective Order, the Receiving  
9 Party must immediately (a) notify in writing the Designating Party of the unauthorized  
10 disclosures, (b) use its best efforts to retrieve all copies of the Protected Material and  
11 Confidential Information and Items, (c) inform the person or persons to whom  
12 unauthorized disclosures were made of all the terms of this Order, and (d) request  
13 such person or persons to execute the “Acknowledgment and Agreement to Be  
14 Bound” that is attached hereto as Appendix A.

15 **10. FILING PROTECTED MATERIAL AND CONFIDENTIAL**  
16 **INFORMATION AND ITEMS**

17 Without written permission from the designating party or a court order secured  
18 after appropriate notice to all interested persons, a party may not file in the public record  
19 in this action any protected material. A party that seeks to file under seal any protected  
20 material must comply with Civil Local Rule 79-5.1.

21 **11. PRIVILEGED MATERIAL**

22 The Parties shall be permitted but not obligated to review materials for privilege  
23 and/or work product protection prior to producing them in this matter. If a Producing  
24 Party discovers that it has produced Privileged Material, it may notify the Receiving  
25 Party, which will promptly destroy, delete, or return all copies of such Privileged  
26 Material. Furthermore, if the Receiving Party has already disclosed the Privileged  
27 Material prior to receiving this notice, the Receiving Party must take reasonable steps  
28 to retrieve the materials or ensure their destruction. Unless otherwise agreed by the

1 Parties in writing, no Party shall be permitted to retain Privileged Material after  
2 receiving notification under this section, even if the Parties dispute the privilege  
3 and/or work product status of the materials. If the Parties subsequently agree or the  
4 Court orders that such materials should be disclosed, the Producing Party will produce  
5 new copies of the materials.

## 6 **12. FINAL DISPOSITION**

7 Unless otherwise ordered or agreed in writing by the Producing Party, within  
8 sixty days after the final termination of This Action, each Receiving Party must return  
9 all Protected Material and Confidential Information and Items to the Producing Party,  
10 or ensure that such materials, information and/or items are deleted or destroyed. As  
11 used in this subdivision, “all Protected Material” includes all copies, abstracts,  
12 compilations, summaries or any other form of reproducing or capturing any of the  
13 Protected Material and Confidential Information and Items. Upon request by the  
14 Designating Party after the conclusion of this Action, the Receiving Party must submit  
15 a written certification (via U.S. Mail, facsimile, or e-mail) to the Producing Party (and,  
16 if not the same person or entity, to the Designating Party) within ten (10) days of said  
17 request that confirms that all the Protected Material and Confidential Information and  
18 Items produced have been returned, deleted and/or destroyed and that affirms that the  
19 Receiving Party has not retained any copies, abstracts, compilations, summaries or  
20 other forms of reproducing or capturing any of the Protected Material and  
21 Confidential Information and Items. Notwithstanding this provision, Counsel are  
22 entitled to retain an archival copy of all pleadings, motion papers, discovery,  
23 transcripts, legal memoranda, correspondence or attorney work product, even if such  
24 materials contain Protected Material and Confidential Information and Items, to be  
25 used solely in the event of any dispute between Counsel and their clients. Any such  
26 archival copies that contain or constitute Protected Material and Confidential  
27 Information and Items remain subject to this Protective Order as set forth in section 4  
28 (DURATION) above.

1 **13. MISCELLANEOUS**

2 13.1. Right to Further Relief. Nothing in this Order abridges the right of any  
3 person to seek its modification by the Court in the future.

4 13.2. Right to Assert Other Objections. By stipulating to the entry of this  
5 Protective Order, no Party waives any right it otherwise would have to object to  
6 disclosing or producing any information or item on any ground not addressed in this  
7 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
8 ground to the use of any of the material covered by this Protective Order at trial, in  
9 evidence or otherwise.

10 ///

11 ///

12 ///

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

2  
3 Dated: March 18, 2019

**BRYAN SCHWARTZ LAW**

4  
5 By: /s/ Rachel M. Terp  
6 Bryan J. Schwartz  
7 Rachel M. Terp  
8 Logan T Talbot  
9 Attorneys for Plaintiff  
10 PEDRO MORET

11  
12 Dated: March 18, 2019

**WINSTON & STRAWN LLP**

13 By: /s/ Raquel M. Mason  
14 Joan B. Tucker Fife  
15 Raquel M. Mason  
16 Attorneys for Defendants  
17 U.S. BANCORP;  
18 U.S. BANK N.A.; and  
19 RED SKY RISK SERVICES, LLC  
20

21 **L.R. 5-4.3.4 Statement**

22 I, Raquel M. Mason, attest that all signatories listed herein, and on whose behalf  
23 this filing is submitted, concur in this filing's content and have authorized this filing.  
24

25 /s/ Raquel M. Mason  
26 Raquel M. Mason  
27

28 **ORDER**

**IT IS SO ORDERED.**

Dated: March 18, 2019

  
HON. SHERI PYM

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_, of \_\_\_\_\_  
4 [print or type full address], declare under penalty of perjury that I have read in its  
5 entirety and understand the Stipulated Protective Order that was issued by the United  
6 States District Court for the Central District of California on \_\_\_\_\_ in the  
7 case of *Moret v. U.S. Bancorp, et al.*; Case No. 5:18-cv-01612. I agree to comply  
8 with and to be bound by all the terms of this Stipulated Protective Order and I  
9 understand and acknowledge that failure to so comply could expose me to sanctions  
10 and punishment in the nature of contempt. I solemnly promise that I will not disclose  
11 in any manner any information or item that is subject to this Stipulated Protective  
12 Order to any person or entity except in strict compliance with the provisions of this  
13 Order.

14 I further agree to submit to the jurisdiction of the United States District Court  
15 for the Central District of California for the purpose of enforcing the terms of this  
16 Stipulated Protective Order, even if such enforcement proceedings occur after  
17 termination of this action.

18 I hereby appoint \_\_\_\_\_ [print or type full name]  
19 of \_\_\_\_\_ [print or type full address and telephone number]  
20 as my California agent for service of process in connection with this action or any  
21 proceedings related to enforcement of this Stipulated Protective Order.

22 Date: \_\_\_\_\_

23  
24 City and State where sworn and signed: \_\_\_\_\_

25  
26 Printed name: \_\_\_\_\_

27  
28 Signature: \_\_\_\_\_